

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN-CUSTODY INTERNATIONAL)	
CORPORATION, a Nebraska)	
corporation,)	
)	
Plaintiff,)	8:07CV176
)	
v.)	
)	
WILLIAM D. TAPER and GARY S.)	MEMORANDUM AND ORDER
FROST,)	
)	
Defendants.)	
_____)	

This matter is before the Court on the motion of defendant Gary S. Frost (Filing No. 43) seeking an order dismissing this action as to him pursuant to Fed. R. Civ. P. 12(b), and on the motion to extend time to file an answer (Filing No. 42). Defendant claims that the Court lacks jurisdiction over his person, that this is an improper venue for this case, and that plaintiff failed to join a necessary party. In connection with his motion, defendant Frost filed an extensive affidavit (Filing No. 44) supporting his motion which incorporates the applicable law that he relies upon. No response has been filed by the plaintiff, and the time for doing so has expired.

The Court has reviewed the original complaint filed in the Douglas County District Court, the notice of removal filed on behalf of defendants William D. Taper and Taper International, and all of the other pleadings and exhibits which constitute the file in this matter. The Court finds that there is no allegation

which would suggest that this Court has personal jurisdiction over the defendant Gary Frost. Taper International was subsequently dismissed from this action (Filing No. 37).

Plaintiff has not responded or controverted any of the allegations made by Mr. Frost in his affidavit, has failed to set forth any allegations which suggest that Mr. Frost has any connection with the State of Nebraska which would support a finding that the Court has personal jurisdiction over Mr. Frost. For these reasons, defendant Frost's motion to dismiss will be granted. Accordingly,

IT IS ORDERED:

1) Defendant Frost's motion to dismiss is granted; he is dismissed as a defendant in this action.

2) Defendant Frost's motion to extend time to file an answer is denied as moot.

DATED this 11th day of October, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court